

§ 713.303 Definitions.

For purposes of this subpart the following definitions apply:

(a) *Disposal*. The conveyance for uses other than for highways of unneeded portions of highway rights-of-way (in contrast to relinquishment, which is the conveyance of a portion of a highway right-of-way or facility by a State highway department (SHD) to another government agency for highway use).

(b) *Final acceptance*. (1) On Federal-aid construction projects, the date of acceptance of the physical construction by FHWA; and

(2) On Federal-aid right-of-way projects, where there is no Federal-aid construction, the date the FHWA determines to be the date of completion of the acquisition of the right-of-way authorized by FHWA to be acquired for the project.

§ 713.304 General requirements.

(a) The conveyance may be to any public entity or private party.

(b) When disposal of unneeded portions of highway rights-of-way involve a change in the access control line, provisions of part 620, subpart B of this chapter also apply.

(c) Federal, State and local conservation, recreation, park, or other appropriate agencies shall be afforded the opportunity to acquire by purchase or donation in accordance with the State law, tracts of right-of-way being considered for disposal when there is indication that such tracts have a present or potential use for parks, conservation, recreational or related purposes. The SHD shall notify the appropriate agencies of its intention to dispose of unneeded portions of right-of-way which it considers to have present or potential use for the aforementioned purposes.

(d) Lands or interests therein are not to be disposed of if they are suitable for retention in order to restore, preserve, or improve the scenic beauty and environmental quality adjacent to the highway.

(e) When right-of-way which has been acquired with Federal-aid participation is disposed of without requiring a credit to Federal funds, the instrument of conveyance shall contain appropriate provisions of "Appendix C" of the

State's title VI Civil Rights Assurances⁶ with respect to the Civil Rights Act of 1964, and the Department of Transportation Regulations (49 CFR part 21).

[39 FR 34651, Sept. 27, 1974, as amended at 41 FR 9321, Mar. 4, 1976]

§ 713.305 Application for approval.

(a) A SHD shall submit a request to FHWA for prior approval to dispose of highway rights-of-way when the determination that the property is no longer needed for highway purposes occurs after:

(1) Final acceptance of a Federal-aid physical construction project, where Federal funds have participated in the right-of-way and construction costs, or construction costs only; or

(2) Final acceptance of a right-of-way acquisition project where Federal-aid highway funds do not participate in the cost of the physical construction.

(b) The request shall include:

(1) An explanation of why the right-of-way is not needed; and

(2) A plan which identifies the right-of-way proposed for disposition in relation to construction features and to the remaining right-of-way.

§ 713.306 Excess right-of-way resulting from plan changes.

(a) Prior to final acceptance of a project, a portion of the right-of-way authorized by FHWA and acquired by the SHD may become unnecessary for the highway project. The unneeded portion usually results from plan changes. Right-of-way authorized and acquired to a natural boundary, but not incorporated into the right-of-way at the time of final acceptance of the project, is considered to be in the nature of a plan change.

(b) When the plan change results in excess right-of-way, a separate request for prior approval of disposal need not be submitted.

(c) Where credit to Federal funds is required in accordance with § 713.307 and the determination as to the

⁶ Appendix "C" of the State's Civil Rights Assurances may be examined at any office of the State Highway Department or at the Federal Highway Administration; 400 7th Street, SW., Washington, DC 20590.